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SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
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OFFICE OF PETITIONS

In re Application of	:	
Inoue et al.	:	
Application No. 09/874,314	:	CORRECTED
Filed: June 6, 2001	:	DECISION
Attorney Docket Number:	:	
Q64575	:	

This is a corrected decision in response to the Petition for Withdrawal of Holding of Abandonment Under 37 C.F.R. § 1.181, filed December 19, 2005, to withdraw the holding of abandonment in the above-identified application.

This Petition is **granted**.

The above-identified application became abandoned as a result of a Decision by the Board of Patent Appeals and Interferences ("the Board"), mailed September 29, 2005. No claims were allowed, and the period for seeking court review of the Decision expired on November 30, 2005. (Emphasis supplied).

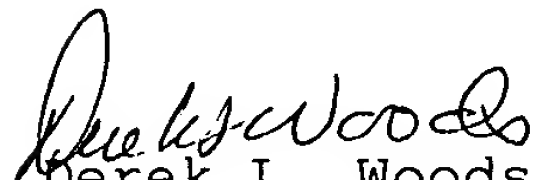
Applicant files the instant petition and asserts that a response to the Decision to wit - a Request for Continued Examination ("RCE") and an Amendment, were timely filed on November 29, 2005.

A review of the file reveals that Applicant is correct. A RCE and Amendment were timely filed on November 29, 2005¹.

¹ The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed. MPEP 706.07(h)

In view of the above the petition is granted. The file is being referred to Technology Center Art Unit 1771 for processing of the RCE and Amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney

Office of Petitions